IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

CRP.No. 1001 of 2006()

AGAINST THE ORDER DATED 09/11/2006 IN EP 14/2002 IN OS.74/1998 of MUNI-MAGI.COURT,THODUPUZHA

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REVN. PETITIONER: JUDGEMENT DEBTOR

V.M.ABDULKALAM, SON OF V.K.MUHAMMED KUTTY SAHIB, VADAKKAYIL HOUSE, MUTHALAKKODAM P.O., THODUPUZHA.

BY ADV. SRI.V.GIRI
SRI.K.S.BHARATHAN

RESPONDENTS: DECREE HOLDER

V.M.MARIAM BEEVI, W/O.P.A.MOHAMMED SALI, PARAMBIL HOUSE, H.NO.243/X, LILLY LODGE ROAD, THODUPUZHA.

BY ADV. SRI.MATHEW JOHN (K)
SRI.SUJESH MENON V.B.

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 20/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.SASIDHARAN NAMBIAR, J.

C.R.P.NO.1001 OF 2006 (A)

Dated this the 20 th day of December, 2006.

ORDER

Petitioner is judgment debtor and respondent the decree holder. This petition is filed under Article 227 of Constitution of India, challenging the order for delivery of the property by the executing court. Case of petitioner was that though the first appeal was dismissed by the Division Bench, petitioner filed a petition for review of the said judgment. R.P.1030/06 and as quorum of Judges to hear the review petition was not constituted, petitioner is not able to get an order of stay and to enable petitioner to obtain an order from Division Bench, delivery is to be stayed. To enable petitioner sufficient opportunity from the Division Bench as per order dated 8.12.06, petitioner was granted sufficient time. Still petitioner could not get an order. The time granted cannot be extended further.

2. The other contention raised in this petition was that as

per the decree, saw mill and the machineries belong to petitioner and he is entitled to remove the same and the order does not show that petitioner is entitled to remove the same. It is made clear that before taking delivery, petitioner is entitled to remove the saw mill and the machineries installed there in. If petitioner fails to remove them, respondent can seek appropriate order from the executing court for their removal at the expense of petitioner.

M.SASIDHARAN NAMBIAR,
JUDGE.

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